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EXAMINER

NGUYEN, THU HA T

ART UNIT	PAPER NUMBER
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2155

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DATE MAILED: 09/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/451,592

Applicant(s)

MANGIPUDI ET AL.

Examiner

Thu Ha T. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

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DETAILED ACTION

1. Claims 1-16 are presented for examination.
2. Claims 17-23 are newly added.
3. This communication is in response to request for continued examination (RCE) filed on June 22, 2004.
4. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.
5. Applicant(s) is requested to correct the U.S. Provisional Application filed date which was December 1, 1998 instead of November 19, 1998 in the related Application section on page 1 of the specification.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-5, 9-21, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Bhoj** and **Choquier**, in view of **Choquier et al.** (hereinafter **Choquier**) U.S. Patent No. **5,951,694**.

8. Regarding claim 1, **Bhoj** discloses a method comprising steps of:

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defining service for at least one of host system, user, URL, hosted site, transaction, content and file type (see figures 2, 5, NEWS SERVERS, E-MAIL SERVERS, WEB SERVER FARM, col. 9 lines 19-col. 10 lines 7);

defining a set of parameters to be measured for each of said service (col. 4 lines 39-col. 6 lines 14, col. 6 lines 63-col. 10 lines 7);

defining acceptance levels for each of parameters in said set of parameters (col. 5 lines 65-col. 6 lines 61, col. 7 lines 22-col. 10 lines 7);

collecting information related to measurement of said parameters (col. 11 lines 24-40 and col. 15 lines 7-18); and

comparing said acceptance levels to said information (col. 11 lines 41-54).

Bhoj does not explicitly teach classes of services. However, it would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made that **Bhoj** implicitly discloses the service management system 31a-33a defines or selects classes of back-end server (e.g., payroll, printing, e-mail server host) based on the data service components being managed (e.g., e-mail, printing...) (see figures 1-2, 4-5, NEWS SERVERS, E-MAIL SERVERS, WEB SERVER FARM, col. 9 lines 19-col. 10 lines 7) equivalent to the step of defining classes of back-end server that disclosed in the applicant's specification. A person of ordinary skill in the art would have recognized that **Bhoj** performs the same function in substantially the same way to reach substantially the same result.

Moreover, **Choquier** teaches the different types of on-line services or class of on-line services, defining the set of parameters for each of class of on-line service and

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store in the priority table that is contained priority levels (figure 12, element 1220, col. 20, lines 32-col. 21, lines 50). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made to combine the teachings of **Bhoj and Choquier** to have the step of defining classes of service and levels for each class because it would have an efficient communications system that provides different on-line services with different classes or levels based on the parameters measurement.

9. Regarding claim 2, **Bhoj** discloses the step of defining further includes the steps of: providing a format in which a set of servers will provide information to be measured (cols. 9-10 lines 62-7); and collecting said information (col. 11 lines 29-35).

10. Regarding claim 3, **Bhoj** discloses generating a database entry for each service commitment element of a service level agreement (cols. 11-12 lines 66-6).

11. Regarding claims 4 and 12, **Bhoj** discloses the set of parameters to be measured is selected from the set consisting of records of performance, errors, client IP address, username, date, time, service, server name, server IP address, processing time, bytes sent, bytes received, service status, operation, target URL, User Agent, referrer parameters, and cookie (cols. 8-9 lines 38-24).

12. Regarding claims 5 and 13, **Bhoj** discloses the information collected further includes information selected from the group consisting of assigned disk space,

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that the user can access, how the user's request is fulfilled within the system or web farm, user's subscribed level of service or class, transaction, number of requests, download size, file size, file type, time of day, week or month, response time of the back end servers', response time of the web farm, and how long it takes to complete a specified request or file (col. 9 lines 25-52).

13. Regarding claim 9, **Bhoj** discloses a method comprising steps of:
defining service parameters according to a hierarchy of service levels (see fig. 2, NEWS SERVERS, E-MAIL SERVERS, WEB SERVER FARM, col. 7 lines 14-21);
selecting at least one of service parameters to be monitored (col. 12 lines 61-67);
creating a database of monitored service parameters (cols. 11 lines 5-6); and
preparing reports and/or alarms according to said selected at least one of service parameters (col. 14 lines 39-44 and col. 15 lines 25-30).

Bhoj does not explicitly teach classes of service. However, it would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made that **Bhoj** implicitly discloses the service management system 31a-33a defines or selects classes of back-end server (e.g., payroll, printing, e-mail server host) based on the data service components being managed (e.g., e-mail, printing...) (see figures 1-2, 4-5, NEWS SERVERS, E-MAIL SERVERS, WEB SERVER FARM, col. 9 lines 19-col. 10 lines 7) equivalent to the step of defining classes of back-end server that disclosed in the applicant's specification. A person of ordinary skill in the art would

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have recognized that **Bhoj** performs the same function in substantially the same way to reach substantially the same result.

Moreover, **Choquier** teaches the different types of on-line services or class of on-line services, defining the set of parameters for each of class of on-line service and store in the priority table that is contained priority levels (figure 12, element 1220, col. 20, lines 32-col. 21, lines 50). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made to combine the teachings of **Bhoj and Choquier** to have the step of defining classes of service and levels for each class because it would have an efficient communications system that provides different on-line services with different classes or levels based on the parameters measurement.

14. Regarding claim 10, **Bhoj** discloses a graphical user interface for performing at least one of selecting the service parameters to be monitored, defining thresholds of service-level commitments for at least some of said service parameters, defining alarm trigger events, scheduling monitoring and reporting functions, and determining reporting formats (see fig. 10, col.12 lines 61-67, col. 14 lines 39-44, col. 15 lines 25-34).

15. Regarding claim 11, **Bhoj** discloses preparing reports and /alarms is further based on thresholds, schedules, and formats defined by the graphical user interface (col. 15 lines 25-34).

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16. Regarding claim 14, **Bhoj** discloses said class of service parameters are selected according to user class, host class, and virtual site class (col. 13 lines 15-19).

17. Regarding claims 15 and 16, **Bhoj** discloses defining classes is based on one of users, URLs and virtual sites (see fig. 2, NEWS SERVERS, E-MAIL SERVERS, WEB SERVER FARM) (col. 7 lines 14-21).

18. Regarding to claim 17, **Bhoj** discloses said information related to measurement of said parameters is collected in real-time (col. 11 lines 24-40 and col. 15 lines 7-18).

19. Regarding to claim 18, **Bhoj** discloses each of said host system, user, URL, hosted site, transaction, content and file type belong to no more than one class (col. 9 lines 19-col. 10 lines 7).

20. Regarding to claim 19, **Bhoj** discloses identifying a set of agreed-to metrics and associating said set of agreed-to metrics with one of a plurality of services (col. 7, lines 22-col. 10, lines 50, col. 12, lines 53-col. 13, lines 39). **Bhoj** does not explicitly teach classes of service. However, it would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made that **Bhoj** implicitly discloses the service management system 31a-33a defines or selects classes of back-end server (e.g., payroll, printing, e-mail server host) based on the data service

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components being managed (e.g., e-mail, printing...) (see figures 1-2, 4-5, NEWS SERVERS, E-MAIL SERVERS, WEB SERVER FARM, col. 9 lines 19-col. 10 lines 7) equivalent to the step of defining classes of back-end server that disclosed in the applicant's specification. A person of ordinary skill in the art would have recognized that **Bhoj** performs the same function in substantially the same way to reach substantially the same result. Moreover, **Choquier** teaches the different types of on-line services or class of on-line services, defining the set of parameters for each of class of on-line service and store in the priority table that is contained priority levels (figure 12, element 1220, col. 20, lines 32-col. 21, lines 50). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made to combine the teachings of **Bhoj and Choquier** to have the same motivation as set forth in claim 1, supra.

21. Regarding to claim 20, **Bhoj** discloses each of plurality of services is defined by a set of agreed-to metrics (col. 7, lines 22-col. 10, lines 50, col. 12, lines 53-col. 13, lines 39). **Bhoj** does not explicitly teach classes of service. However, it would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made that **Bhoj** implicitly discloses the service management system 31a-33a defines or selects classes of back-end server (e.g., payroll, printing, e-mail server host) based on the data service components being managed (e.g., e-mail, printing...) (see figures 1-2, 4-5, NEWS SERVERS, E-MAIL SERVERS, WEB SERVER FARM, col. 9 lines 19-col. 10 lines 7) equivalent to the step of defining classes of back-end server that disclosed in the applicant's specification. A person of ordinary skill in the art would

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have recognized that **Bhoj** performs the same function in substantially the same way to reach substantially the same result. Moreover, **Choquier** teaches the different types of on-line services or class of on-line services, defining the set of parameters for each of class of on-line service and store in the priority table that is contained priority levels (figure 12, element 1220, col. 20, lines 32-col. 21, lines 50). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made to combine the teachings of **Bhoj and Choquier** to have the same motivation as set forth in claim 1, supra.

22. Regarding to claim 21, **Bhoj** does not explicitly teach said classes defines a hierarchy of service levels. However, **Choquier** teaches wherein said class defines a hierarchy of service levels (col. 6, lines 8-31). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made to combine the teachings of **Bhoj and Choquier** to have the same motivation as set forth in claim 1, supra.

23. Regarding to claim 23, **Bhoj** discloses wherein the step of defining service parameters comprising identifying a set of agreed-to metrics and associating said set of agreed-to metrics with one of a plurality of services (col. 7, lines 22-col. 10, lines 50, col. 12, lines 53-col. 13, lines 39).). **Bhoj** does not explicitly teach classes of service. However, it would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made that **Bhoj** implicitly discloses the service management system 31a-33a defines or selects classes of back-end server (e.g.,

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payroll, printing, e-mail server host) based on the data service components being managed (e.g., e-mail, printing...) (see figures 1-2, 4-5, NEWS SERVERS, E-MAIL SERVERS, WEB SERVER FARM, col. 9 lines 19-col. 10 lines 7) equivalent to the step of defining classes of back-end server that disclosed in the applicant's specification. A person of ordinary skill in the art would have recognized that **Bhoj** performs the same function in substantially the same way to reach substantially the same result. Moreover, **Choquier** teaches the different types of on-line services or class of on-line services, defining the set of parameters for each of class of on-line service and store in the priority table that is contained priority levels (figure 12, element 1220, col. 20, lines 32-col. 21, lines 50). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made to combine the teachings of **Bhoj** and **Choquier** to have the same motivation as set forth in claim 1, supra.

24. Claims 6-8 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Bhoj et al** and **Choquier et al**, in view of **Fletcher et al** (hereinafter Fletcher) U.S. Patent No. **6,269,401**.

25. Regarding claim 6, **Bhoj** discloses an apparatus comprising:
at least one back-end servers and reporter (figures 1-2, 4-5, see fig. 2, NEWS SERVERS, E-MAIL SERVERS, WEB SERVER FARM, col. 9 lines 19-col. 10 lines 7) and reporter (figure 7);

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a network connecting said at least one back-end servers and a reporter (figures 1-2, 4-5, 7 NEWS SERVERS, E-MAIL SERVERS, WEB SERVER FARM, col. 9 lines 19-col. 10 lines 7);

a collection processor measuring and periodically collecting a set of defined parameters for said at least one back-end servers (cols. 5-6 lines 65-34 and col. 7 lines 22-col. 10 lines 7, col. 11 lines 24-40 and col. 15 lines 7-18);

wherein said acceptance levels depend on at least one of a service for at least one of host system, URL, hosted site, transaction, content, file type and user (figures 2, 5, col. 9 lines 19-col. 10 lines 7).

Choquier teaches the different types of on-line services or class of on-line services, defining the set of parameters for each of class of on-line service and store in the priority table that is contained priority levels (figure 12, element 1220, col. 20, lines 32-col. 21, lines 50). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made to combine the teachings of **Bhoj and Choquier** to have the step of acceptance levels for each class because it would have an efficient communications system that provides different on-line services with different classes or levels based on the parameters measurement.

However, **Bhoj and Choquier** do not teach a set of acceptance levels for said collected parameters, a monitoring processor determining which of said collected parameters exceed a corresponding acceptance level, and a reporting process that produces a report results of said monitoring processor. **Fletcher** teaches a set of acceptance levels for said collected parameters (fig. 3 col. 6 lines 26-34, col. 8 lines 7-

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col. 9 lines 30, col. 22 lines 67-col. 23 lines 7, col. 23 lines 55-col. 26 lines 65); a monitoring processor determining which of said collected parameters exceed a corresponding acceptance level (col. 23 lines 16-col. 25 lines 39); and a reporting process that produces a report results of said monitoring processor (col. 25 lines 27-37). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention to combine the teachings of **Bhoj, Choquier and Fletcher** to have a set of acceptance levels corresponding to said collected parameters, a monitoring processor determining which of said collected parameters exceed a corresponding acceptance level, and a reporting process that produces a report results of said monitoring processor because it would have an efficient communication system that can monitor a communication network and enable to detect a problem and determine the cause of the problem and report to the network manager.

26. Regarding claim 7, **Fletcher** teaches monitoring a set of defined parameters and logging them into respective log files (col. 6 lines 40-43); scheduler triggering said reporter to begin collection of log files from a list of back-end server (col. 8 lines 735); an accumulator requesting log files from the intelligent agent of each listed backend server and consolidating the log files into a database (cols. 24-25 lines 51-26); an interface mechanism between said accumulator and each of intelligent agent (figures 3, 8, col. 24 lines 51-col. 25 lines 39), said interface mechanism ensuring that each requested log file is completely transferred to the accumulator prior to starting consolidation (col. 25 lines 3-26).

27. Regarding claim 8, **Fletcher** teaches keeps track of which portions of said log files have been transferred (col. 24 lines 29-50).

28. Regarding to claim 22, **Bhoj** teaches wherein said service for at least one of host system, URL, hosted site, transaction, content, file type and user is defined by identifying a set of agreed-to metrics and associating said of agreed-to metrics with one of plurality of services (col. 7, lines 22-col. 10, lines 50, col. 12, lines 53-col. 13, lines 39).

Conclusion

29. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure (see PTO-892 attachment).

30. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Ha Nguyen whose telephone number is (703) 305-7447. The examiner can normally be reached on Monday- Friday, 8:00AM – 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain T. Alam can be reached on (703) 308-6662. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Thu Ha Nguyen

September 13, 2004


HOSAIN ALAM
SUPERVISORY PATENT EXAMINER